

California State Board of Equalization
January 2006



Your Appeal Hearing

Before the Board Members

Now that you have been scheduled for an oral hearing before the elected Members of the Board, you should take this opportunity to plan for the hearing so that you are prepared to present your case effectively.

As discussed in this publication, there are certain things you must do before the hearing, and there are some things that you should consider, even if they are not required.

If you need any assistance, please do not hesitate to contact the Board Proceedings Division at 916-322-2270. Staff will be glad to answer your questions about this publication or the hearing process in general.

Board Proceedings Division
State Board of Equalization

Contents

	Page
Board Members	1
Before Your Hearing	
Response to Notice of Hearing	2
Postponement Requests	3
Representation at the Hearing	4
Contribution Disclosure Statements	5
Settlement Requests	6
Advance Payment and Interest Charges	7
Exhibits for the Hearing	8
At the Hearing	
How a Board Hearing Is Conducted	10
Written Information Reviewed by the Board Members	12
Hearing Record Requests (Transcripts)	14
The Board Decision	15
Contacts	16
Publications	18

Board Members

First District	Betty T. Yee, Acting Member	San Francisco
Second District	Bill Leonard	Sacramento/Ontario
Third District	Claude Parrish	Long Beach
Fourth District	John Chiang	Los Angeles
State Controller	Steve Westly	Sacramento

Your appeal will be heard by the Members of the State Board of Equalization. One Member is elected from each of California’s four Equalization Districts. The State Controller, elected at large, serves as the Board’s fifth Member.



Response to Notice of Hearing

When you received your hearing notice, you were given a Response to Notice of Hearing form to complete. You must return this form by the due date on the notice.

You must tell us which one of the following applies to you:

- You and/or any representatives will attend the hearing and make an oral presentation to the Board Members.
- You waive your right to personally appear at the hearing (the Board Members will determine your case based on the information previously submitted).
- You withdraw your request for an oral hearing (this will end your appeal, and the Board Members will not consider your case).

If you do not complete and return the Response to Notice of Hearing form, your case will be submitted to the Board Members without an oral hearing, and the Board Members will make their decision on the written material available.

Postponement Requests

You may ask us to postpone your oral Board hearing to a date later than the one shown on the hearing notice. You must ask for the postponement before the deadline on the notice and tell us why you need the delay. We can grant you one delay if you provide good cause, such as a scheduling conflict, and the Board Members approve your request.

If you make your request after the deadline, the postponement may still be allowed, but only if both of the following apply:

- You can demonstrate that holding the hearing as scheduled will cause you an extreme hardship, and
- All parties agree to delay the hearing.

Note: If a postponement is granted for a Board hearing scheduled outside Sacramento (such as a Board hearing in Culver City or San Diego), we will ask if you would be willing to reschedule for the next Board hearing in Sacramento. If that would create a hardship for you, it is possible to reschedule your hearing for the next hearing in Culver City or San Diego.

Representation at the Hearing

You may represent yourself at the hearing or have someone represent you. You may be represented by an accountant, attorney, or any other person at least age 18 that you choose. If you choose to have a representative, you may participate with your representative when that person presents your case before the Board Members.

Note: See page 5 for information on contribution disclosure statements that must be filed.

Free legal assistance program. Free legal assistance may be available to qualified taxpayers. If you are interested, please call the Board Proceedings Division at 916-322-2270 for more information.

Contribution Disclosure Statements

Approximately 45 days before your oral hearing, the Board Proceedings Division mails out disclosure statements that must be completed. Everyone who is required to complete the form must indicate whether they have made any contributions to a Board Member within the preceding 12 months.

You must complete a disclosure statement since you are the taxpayer and are directly affected by the Board Members' decision on your case. However, as explained below, other people may also be required to complete a disclosure statement.

The following people are required to complete a disclosure statement:

- **Party/Taxpayer.** Any person who is the subject of the case pending before the Board.
- **Participant.** Someone who is not a party to the appeal but who lobbies for a particular decision related to the appeal. A witness is considered a participant.
- **Agent/Representative.** Someone who represents a party or a participant.

Note: Anyone who has completed a disclosure statement and who will appear at the hearing will be asked to update the contribution disclosure statement when they check in for the hearing.

Settlement Requests

What is a settlement? A settlement is a voluntary agreement between you and the taxing agency that (1) allows you to pay the state less than the taxing agency says you owe, or (2) allows the state to refund you an amount that differs from the amount you claimed. If you and the taxing agency agree to a settlement, the agreement is final and cannot be appealed by either party.

For certain taxes and fees, you may be able to settle your case without proceeding to an oral hearing before the Board Members. Certain conditions must be met, including critical application deadlines. It is important that you contact the appropriate agency as soon as possible to find out if you qualify.

Franchise and Income Taxes

For questions regarding income and franchise tax settlements, please contact the Franchise Tax Board at 916-845-5034, or go online to www.ftb.ca.gov.

Other Taxes and Fees

The Board of Equalization's Settlement Division handles requests for settlements for sales and use taxes and certain special taxes and fees administered by this agency. Contact them at 916-324-2836.

For more information on Board of Equalization settlements, please see publication 17, *Appeals Procedures: Sales and Use Taxes and Special Taxes*. For a copy, call 800-400-7115 or go online to www.boe.ca.gov. Settlement information is also available at www.boe.ca.gov/sutax/boe393n.htm.

Advance Payment and Interest Charges

If you have been billed for an unpaid tax or fee, you may want to stop the accrual of interest charges by paying the liability now. You may pay all or part of the amount due. If you pay part of the amount due, interest charges will continue to accrue on the unpaid tax balance until it is paid.

Paying a tax or fee liability does not jeopardize your appeal. If you win your appeal, you will receive a refund of your payment plus added interest. If you do not pay your liability now and lose your appeal, interest charges will continue to accrue until the tax portion of the liability is paid.

You should consult with the agency that billed you to discuss the effect of making a full or partial payment before your case is resolved. Call the telephone number shown on the billing notice you received.

Exhibits for the Hearing

If you believe any facts of your case are different from those presented by the taxing agency in its briefings, you can submit exhibits to support your claim. If you have exhibits to submit, you should provide them as soon as possible to allow sufficient time for all parties and the Board Members to review them.

Be sure you provide an exhibit and not a legal brief

Exhibits can be any evidence, such as sworn statements, photocopies of documents, or charts.

Staff will review your submitted material to ensure that it does not include any elements of a brief. If your exhibits include the elements of a brief, those elements will not be accepted and will be returned to you.

In general, a brief is a written document that

- Discusses or points out the specific laws and regulations that apply to a case.
- Discusses or argues how those laws and regulations fit the facts of a case and support a party's position.

Statements from witnesses, called affidavits or declarations, are not briefs.

Please contact us early

We encourage you to provide copies of your exhibits at least two weeks before your oral appeal hearing date. The Board Members will be in a better position to consider the merits of your case if they have more time to review your exhibits.

Provide multiple copies of your exhibits

Provide nine sets of copies. If you provide copies before the hearing, send them to the Board Proceedings Division (see page 16 for the address). If you do not submit exhibits before your hearing, present your copies to the person who signs you in at the hearing.

Disclosure forms

If your exhibits include witness affidavits or declarations, each person who signs an affidavit or declaration must complete a “participant” contribution disclosure form. See page 5 for more information.

How a Board Hearing Is Conducted

Oral hearings before the Board Members are brief, to the point, and informal. As shown on the right, you and the taxing agency will generally have a set amount of time to present your positions on the issues for your case. The Board Members will base their decision on the written material they have been given and on presentations made at the hearing.

Written materials

See pages 12-13 for information on the written material that is given to the Board Members for their consideration.

Oral presentations

During the oral presentations, the Board Members may ask either you or the taxing agency's representative to provide more information or to give an opinion on the arguments being presented. As explained on page 4, you may ask another person to represent you at the hearing.

Staff from the Board Proceedings Division and the Taxpayers' Rights Advocate Office will be available to answer your questions.

- You should arrive 30 minutes before the hearing to sign in and update your disclosure forms (see page 5).
- After you sign in, please be seated in the audience.
- When it is your turn to appear, your case name will be called, and you will be asked to sit at the table in front of the Board Members.

- A board staff member will introduce the case and state the issues in dispute.
- The Board Chair will then ask you to present your case. You will be given up to ten minutes for your oral presentation.*
- Next, the Board Chair will give the taxing agency up to ten minutes to present its side of the case.
- You will then be given up to five minutes to reply to the agency's presentation.
- At the end of your hearing, the Board Members may make an immediate decision, or they may take the case under submission and make a decision later, usually the same day. See page 15 for more information on the Board's Decision.

* If you believe you need additional time, you can write in advance to the Chief of the Board Proceedings Division and request more time. In your letter, you should explain why more time is necessary. See page 16 for the division's mailing address.

Written Information Reviewed by the Board Members

When you present your case, you should know what information the Board Members have been provided for your case. The Members will decide your case based on this written information and the oral presentations at the hearing.

■ **Business Taxes Hearing** (sales and use taxes and other business taxes and fees)

All briefs filed by the taxpayer and agency staff. ¹

Exhibits submitted to the Board Proceedings Division. ²

Board Hearing Summary. ³ (The summary also will include a Decision and Recommendation report prepared by the Appeals Division.)

■ **Cigarette Seizure Hearing**

All briefs filed by the taxpayer and agency staff. ¹

Exhibits submitted to the Board Proceedings Division. ²

Board Hearing Summary. ³

■ **California Cigarette and Tobacco Product License Hearing** (retailers)

All briefs filed by the taxpayer and agency staff. ¹

Exhibits submitted to the Board Proceedings Division. ²

Board Hearing Summary. ³

■ **Franchise and Income Tax and Homeowner and Renter Appeals**

All briefs filed by the taxpayer and the Franchise Tax Board. ¹

Exhibits submitted to the Board Proceedings Division. ²

Board Hearing Summary. ³

■ Local Tax Hearing

All briefs filed by the local government entity and the staff at the Board of Equalization.¹

Exhibits submitted to the Board Proceedings Division.²

Board Hearing Summary.³

■ Property Tax Petitions

For oral hearings or nonappearance matters with contested issues:

Valuation Division's Brief and (if filed) the Petitioner's Reply Brief.¹

Exhibits submitted to the Board Proceedings Division.²

Board Hearing Summary.³

For nonappearance petitions with no contested issues:

Valuation Division's Recommendation (includes an analysis of the petition, related supporting documents, a staff recommendation for Board action, and any reply brief supplied by the taxpayer)¹

Exhibits submitted to the Board Proceedings Division.²

Summary Decision (recommended resolution).

-
1. A legal brief is a document that argues a point of view based on the facts of the case and legal authorities (for example, statutes and regulations).
 2. An exhibit differs from a legal brief. It is used to verify a fact but does not argue a point based on legal authorities.
 3. The Hearing Summary is prepared by the Board of Equalization's Appeals Division. It summarizes your arguments and the state's arguments. Copies are provided to the Board Members and to you.

Hearing Record Requests (Transcripts)

Let us know if you would like to receive a printed transcript of your hearing. All Board Member hearings are transcribed by a certified court reporter; however, printed transcripts are not automatically prepared for taxpayers. When you sign in on your hearing date, tell the Board Proceedings staff you would like to order a copy of the transcript of your hearing, and they will have you fill out a request form. If you will not attend the hearing, your representative can request a transcript.

You will be charged for the transcript at the rate of \$2.55 for each double-spaced typewritten page.

You can also write in advance of the hearing to request a transcript.
Write to

Chief, Board Proceedings Division, MIC: 81
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0081

The Board's Decision

At the end of your hearing, the Board Members may make an immediate decision, or they may take the case under submission and make a decision later, usually the same day. If the Board Members wait to decide your case (take your case under submission), they may refer the matter to the Appeals Division staff for further review. After that review is completed, the Board Members will make a final decision.

Regardless of when the decision is made, you will be notified of the decision and will be advised if you must take further action (for example, pay a liability).

If you do not succeed in your appeal, you may have further appeal rights, as explained in the following publications:

- Publication 17, Appeals Procedures: Sales and Use Taxes and Special Taxes
- Publication 81, Franchise and Personal Income Tax Appeals

Please contact the Board Proceedings Division at 916-322-2270 if

- You cannot find the answer you are looking for in the publications listed above, or
- Your appeal is for a tax or fee other than those discussed in publications 17 and 81.

You may also want to consult with an attorney, tax professional, or other expert to learn more about your appeal rights.

Contacts

OFFICE

TELEPHONE

FAX

Taxpayers' Rights Advocates

If you have a disagreement you cannot resolve through routine channels or wish to know more about your rights, you may contact your Taxpayers' Rights Advocate for assistance.

Sales and use taxes, special taxes and fees, and property tax

Taxpayers' Rights Advocate, MIC:70 888-324-2798 (toll free) 916-323-3319
State Board of Equalization 916-324-2798
PO Box 942879
Sacramento, CA 94279-0070

Personal income tax, franchise taxes, bank taxes, and corporation taxes

Taxpayer Advocate Bureau 800-883-5910 (toll free) 916-845-6614
Franchise Tax Board
PO Box 157
Rancho Cordova, CA 95741-0157

Board Proceedings Division

Call this division if you have questions about hearing procedures.

Board Proceedings Division, MIC:81 916-322-2270 916-324-3984
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0081

Contacts

OFFICE

TELEPHONE

FAX

Appeals Division

Appeals Division, MIC:85
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0085

916-324-2621

916-324-2618

Settlement and Administration Division

Settlement Division, MIC:87
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0087

916-324-2836

916-323-3387

State-Assessed Properties

Valuation Division, MIC:61
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0061

916-322-2323

916-324-2787

Websites

Franchise Tax Board
State Board of Equalization

www.ftb.ca.gov
www.boe.ca.gov

Publications

Board of Equalization

If you would like to receive a copy of the following publications, go online to www.boe.ca.gov or call our Information Center at 800-400-7115.

Publication 17	Appeals Procedures: Sales and Use Taxes and Special Taxes
Publication 70	Understanding Your Rights as a California Taxpayer
Publication 81	Franchise and Personal Income Tax Appeals
Publication 117	Filing a Claim for Refund
No number	State Assessment Manual (describes principles and procedures used by the Board in the assessment of state-assessed property) www.boe.ca.gov/proptaxes/sappcont.htm

Franchise Tax Board

A brief discussion of appeal rights is included in the Franchise Tax Board's publication on the 1988 California Taxpayers' Bill of Rights. For a copy, go to www.ftb.ca.gov/forms/misc/4058.pdf or call 800-338-0505. See also Board of Equalization publication 81, listed above.



Publication 143 • LDA